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JOHNSON & JOHNSON CORPORATE HEADQUARTERS PATENT LAW DEPARTMENT ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NEW JERSEY 08933-7003

FACSIMILE TRANSMISSIONS COVERSHEET

DATE: Aug. 26, 2004

ATTENTION:

COMPANY:

PTO

FACSIMILE NO.: 703-872-9306

FROM:

Brian S. Tomko

TELEPHONE NO.: (732) 524-1239

FACIMILE NO.: (732)-524-5575

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

COMMENTS:

Re: USSN 10/047,581

Our Ref.:

HRT0287

Contents: Petition to Accept an Unintentionally Delayed Claim of Priorty

CONFIDENTIALITY NOTICE

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P. 02 Sep 20 2004 3:28 Fax:7325245575 JOHNSON

Docket No. HRT0287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

Applicants

John H. Stevens

CENTRAL FAX CENTER

Serial No.

10/047,581

Art Unit: 3738

SEP 2 0 204

Filed

October 23, 2001

Examiner: D. Isabella

Title

Devices and Methods for Port-Access Multivessel Coronary Artery Bypass

Surgery

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. \$1.8

I hereby certify that this correspondence is being faxed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on September 20, 2004, to telephone number 703 872-9306.

Dated: June 21, 2004

Tomko

Honorable Commissioner of Patents Mail Stop Petition Alexandria, VA 22313

PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY

Dear Sir:

This is a Petition to correct an unintentionally delayed claim of priority in the above pending application. Applicant's representative received a Office Action dated March 19, 2004, and while preparing to respond to the Office Action, noted an error in the priority claim.

Applicant hereby petitions the Commissioner under 37 C.F.R. §1.78(a)(3) to claim the benefit under 35 U.S.C. § 120 of earlier filed applications in the United States. The claim of priority is as follows:

This application is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 25, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial No. 08/206,419, filed March 4, 1994, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559, filed on July 16, 1991, now U.S. Patent No. 5,370,685.

Serial No. 10/047,581

HRT0256

The entire delay between the date the priority claim was due under paragraph §1.78(a)(2)(ii), four months from the actual filing date of this application (i.e., February 23, 2002) and this date was unintentional. When the current application was filed, priority was claimed to the parent application, U.S. Patent Application Serial No. 08/615,481, as indicated in box 18 of the Transmittal Sheet dated October 23, 2001, attached as Appendix A.

Upon receiving a Restriction Requirement dated June 18, 2002, Applicant noted that the priority claim had not been amended to claim priority to the earliest priority date to which the application was entitled. Applicant filed an Election and Amendment dated July 16, 2002, that amended the specification to add the priority claim. A copy of the Election and Amendment is attached as Appendix B. While the amendment appropriately claimed priority (albeit with an error in the filing date of Serial No. 08/206,419), the amendment was made after the four-month period permitted under 37 C.F.R. §1.78(a)(2)(ii).

As stated above, Applicant's representative first became aware of the need to correct the priority statement while preparing to respond to the outstanding Office Action dated March 19, 2004, and promptly filed this Petition.

Applicants attach an Amendment to amend the specification to correct the priority and also submit this Amendment with the Request for Continued Examination filed on this date. Please charge the surcharge set forth in 37 CFR § 1.17(t) of \$1,330.00 to Account 10-0750/HRT-287/BST and any additional surcharge or fee that is required in connection with this petition.

Please feel free to contact me, if any further information is required at (732)524-1239. Respectfully submitted,

Reg. No. 41,349

Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 (732) 524-1239 (732) 524-5575 (fax) Dated: September 20, 2004

Appendix A-1

### ATENT APPLICATION TRANSMITTAL (cuty for new neeproceptions applications with an art of the processory) APPLICATION ELEMENTS	Piosta funa a niu	es sign (+) inside this box — +			•		
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Entropy of their new nonprovisional application wides 27 CFR Express Metal Label No. Editorial State Editorial	PATENT	APPLICATION	First Inventor		John H. Stevens		
APPLICATION ELEMENTS See MPEP Craptor 500 concerning utility patent application contents. ADDRESS TO: Commissioner for Patents 80x Patent Application Washington, Dc 20231 1. See Transmittal Form (e.g., PTO/SB/17) (subtrat on orbital and a dispetate for the processing) 2. Applicant oleims small entity status. 3. Specification Tical Pages 28 (Pretermed arrangement set from below) - Description 1 files of the Invention - Cross Reference to Related Applications - Statement Regarding Feet approsoned R&D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Description of the Drawlings (if filed) - Detailed Description - Claim(e) - Abdirect of the Disclosure 4. Drawling(a)(35 USC 113) [Total Sheets4] 5. Oath or Declaration - I mewly executed (original or copy) - B. Copy from a prior application (37 CFR 1.8(a)) (for continuation/thylschane with Box 18 dependent) (for continuation/thylschane with Box 18 dependent) - Signed statement attached defeting inventor(s) named in the prior application, see 37 CFR 1.3(b)(c)) and 1.3(b). 6. Application Data Sheet. See 37 CFR 1.76 18. If a CONTINUING APPLICATION, check appropriate box and supply the regulation below and in a preference or divisional application and subsets and careful or declaration information. Examiner D. Isabellal Continuation of divisional polication and subsets and careful or declaration in information. Examiner D. Isabellal Continuation of divisional polication and subsets and careful or divisional application and is hereby incorporated by derivence. The incorporation gen only be reliable upon when a portion has been inadvertenity or indication. Formation below and in a profession of divisional application and is hereby incorporated by reference. The incorporation gen only be reliable upon when a portion has been inadvertenity or mitted from the submitted application parts. 19. Continuation Orivisional Continuation-In-Part (CIP) of prior application, from which an inadvertenity o	TRA	TRANSMITTAL			Endovescular Apriic Valve Replacement		
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15, 1998. Prior application information: Examiner D. Isabella Group Art Unit: 3738 For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an ceth or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts. 19. CORRESPONDENCE ADDRESS Customer Number or Bar Code Label 000027777 or Correspondence Address below Name: Philip S. Johnson, Esq. Address: Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 USA 20. TELEPHONE CONTACT Please direct all telephone calls or telefaxes to E. Richard Skula at: Telephone: (732) 524-2718 Fax: (732) 524-2808 21. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED NAME E. Richard Skula Reg. No. 31081	preliminary emendment, or in an Application Data Sheet under 37 CFR 1.76;						
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continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts. 19. CORRESPONDENCE ADDRESS Customer Number or Bar Code Label 000027777 or Correspondence Address below Name: Philip 8. Johnson, Esq. Address: Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 USA 20. TELEPHONE CONTACT Please direct all telephone calls or telefaxes to E. Richard Skula at: Telephone: (732) 524-2718 Fax: (732) 524-2808 21. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED NAME E. Richard Skula Reg. No. 31081	For CONTINUATIO	N or DIVISIONAL APPE	only: The en	tire dis	closure of the prior application, from which an		
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Name: Philip 8. Johnson, Esq. Address: Johnson & Johnson Plaza							
One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 USA 20. TELEPHONE CONTACT Please direct all telephone calls or telefaxes to E. Richard Skula at: Telephone: (732) 524-2718 Fax: (732) 524-2808 21. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED NAME E. Richard Skula Reg. No. 31061 SIGNATURE							
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21. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED NAME E. Richard Skula Reg. No. 31081 SIGNATURE	Please direct all telephone calls or telefaxes to E. Richard Skula at:						
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Appendix B-1 Docker No. HRT-0287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants

John H. Stevens

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Serial No.

10/047,581

An Unit

3738

SEP 2 0 2004

Filed

10/23/2001

Examiner

D. Isabella

Title

Devices and Methods for Port-Access Multivessel Coronary Artory Bypass

Surgery

I bereby narrify that this correspondence is baing deposited with the United States Postal Advice as Sirst closs mail in an envelope sizes and to: Commissioner of Patence, weekington, D.C. 20201 on

July 16, 2002

Brian S. Tomko
(Name of apprisons, designes, or Angistered Regressmentive)

July 16, 2002

(Date tt Signsture).

Honorable Commissioner of Patents Washington, D.C. 20231

ELECTION AND AMENDMENT

Dear Sir:

In response to the Restriction Requirement dated June 18, 2002, Applicants elect the species defined by the Examiner as Invention VI relating to Claims 7-8, without traverse. Applicants reserve the right to file divisional applications to pursue claims for the remaining inventions.

In the specification:

Please amend page 1. line 7 to add the following paragraph as follows:

CROSS REFERENCE TO RELATED APPLICATION

This is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 25, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial

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P. 06

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Appendix B-2

No. 08/206,419, filed on October 18, 2001, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559, filed on July 16, 1991, now U.S. Patent No. 5,370,685.

REMARKS

Applicants have canceled without prejudice claims 1-6 and 9-14. Remaining claims 7-8 correspond to the Examiner's Group VI contained in the Restriction Requirement.

Attached hereto is a marked-up version of the changes made to the specification by this amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

Brian S. Tomko Reg. No. 41,349

Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 (732) 524-1239

Dated: July 15, 2002

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P. 07

Appendix B-3

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

CROSS REFERENCE TO RELATED APPLICATION

This is a continuation of U.S. Patent Application Serial No. 08/615.481 filed on March 25, 1996, now U.S. Patent No. 6.338.735, which is division of U.S. Patent Application Serial No. 08/206.419, filed on October 18, 2001, now U.S. Patent No. 5.545.214, which is a division of U.S. Patent Application Serial No. 07/730.559, filed on July 16, 1991, now U.S. Patent No. 5.370.685.

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Appendix B-4

SERIAL NO	
APPLICATION OF John W. S.	OCKET NO. HRT-0287
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I ISSUE FEE TRANSMITTAL	FRIORITY DOUCUMENT
LETTER	□ STATUS INQUIRY
D PCT FILING	CO COLOURY
	SPECIFICATION PGS
☐ IDS - FORM - 1449	CLAIMS PGS